

July 6, 2016

SUBMITTED VIA ELECTRONIC FORM ON EPA REGION 1 WEBSITE

<https://foiaonline.regulations.gov/foia/action/public/home>

Regional Freedom of Information Officer  
U.S. EPA, Region 1 (OARM01-6)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

**Re: Freedom of Information Act Request**

Dear Sir or Madam:

Conservation Law Foundation ("CLF") hereby requests the record described below pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552 *et seq.* Pursuant to 40 CFR § 123.43 and the Memorandum of Agreement Section C, the "[VT] ANR [Vermont Agency of Natural Resources] ... agrees to keep current and submit effluent data to EPA...." Accordingly, CLF requests records related to each Wastewater Treatment Plant (WWTP) belonging to or serving the City of Burlington, the City of Rutland, the City of St. Albans, and the Town of Middlebury for the last five years.

These WWTPs include: (1) Burlington Riverside WWTP (NPDES permit number: VT0100307); (2) Burlington North End WWTP (NPDES permit number: VT0100226); (3) Burlington Main WWTP (NPDES permit number: VT0100153); (4) Rutland City (NPDES permit number: VT0100871); (5) St. Albans City (NPDES permit number: VT0100871); (6) St. Albans Maquam (NPDES permit number: VT0022942); and (7) Middlebury (NPDES permit number: VT0100188).

CLF also requests all records related to any Combined Sewer Overflows (CSOs) that accompany or are part of any WWTPs belonging to or serving any of the listed cities for the last five years. CLF requests disclosure of all requested records below including any and all nonexempt portions of records that are otherwise determined to be exempt from review under the FOIA pursuant to 5 U.S.C. § 552(b). *Wightman v. Bureau of Alcohol, Tobacco & Firearms*, 755 F.2d 979, 983 (1st Cir. 1985).

The requested records include, but are not limited to:

- All records concerning the Federal Water Pollution Control Act (Clean Water Act) related to the WWTPs.
- Any documents regarding the influents, effluents, and discharges of each facility including but not limited to discharge permits and monthly Discharge Monitoring Reports (DMRs).
- All records concerning CSO events.
- Any violations of Vermont Water Quality Standards from contaminants including but not limited to oil, grease, scum, foam, or floating solids related to the WWTPs.
- All records pertaining to monthly average concentrations of phosphorus, biochemical oxygen demand (BOD), and Total Suspended Solids (TSS) related to the WWTPs.
- Any information regarding the WWTPs reapplication for a new permit or documents pertaining to the permit's administrative continuance.
- All records pertaining to Dry Weather Flows of untreated municipal wastewater from any sanitary or combined sewers related to the WWTPs.
- Any records regarding bypass or diversion of facilities related to the WWTPs.
- Any records regarding emergencies resulting in an effluent that exceeds the effluent limitations.
- Any notice to EPA about any new pollutants considered to be a new source as defined by Section 306 of the Clean Water Act, any new pollutants subject to Section 301 of the Clean Water Act, and any substantial change in the volume or character of pollutants.
- Any and all noncompliance notifications related to the WWTPs and CSOs, including but not limited to Quarterly Non-Compliance Reports ("QNCR"), Quarterly Compliance Update Meeting notes and minutes, and any noncompliance memoranda and reports.
- Any sent, received, and internal agency memos, reports, and correspondence related to the WWTPs and CSOs.
- Any EPA or VT ANR response to Significant Non-Compliance ("SNC") including but not limited to the issuance of a Notice of Violation to the permittee.
- All VT ANR quarterly submissions to EPA including but not limited to summaries of all State and Civil judicial actions.
- All joint inspection reports and inspection submissions from VT ANR.
- Any notifications to EPA from VT ANR regarding changes to the ANR significant industrial user list.
- All semiannual state pretreatment reports provided by VT ANR.

- Any attachments to any of the documents requested above.

If possible, please provide this information in electronic format. CLF looks forward to a response and determination from your office within twenty working days of receipt of this request consistent with 5 U.S.C. § 552(a)(6) and 40 C.F.R. § 2.104. If this request is denied in whole or in part, CLF is entitled to receive, at a minimum: (1) a detailed index/list of the records withheld, including the name of the record, the subject of the record, the author of the record, and the date of the record; and (2) EPA's basis for withholding the records. *Church of Scientology Int'l v. U.S. Dep't of Justice*, 30 F.3d 224, 228 (1st Cir. 1994); *Vaughn v. Rosen*, 484 F.2d 820, 823-28 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974).

#### Fee Waiver Request

Because CLF works on behalf of the public interest and this FOIA request is made in furtherance of the public interest, CLF requests a waiver of any and all fees associated with the disclosure of records pursuant to this request. The FOIA and EPA's regulations provide that records will be furnished at reduced or no charge when disclosure "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. §552(a)(4)(A)(iii); 40 C.F.R. §2.107(l).

CLF is a nonprofit, member-supported legal and policy advocacy organization which employs advocates with expertise in many fields, including the Clean Water Act and protection of water resources. Across five New England states, CLF employs approximately twenty advocates with advanced professional degrees and experience in law, economics, resource management, and science. As described above, CLF has played a critical role in the preservation and enhancement of water quality in Vermont and New England as a whole, and has been a leader in addressing the environmental problems posed by water pollutant emissions.

Permit information, effluent and influent limits, self-reported influent and effluent data, and compliance records contain important information about municipal Clean Water Act compliance and what Vermont is doing in response to any noncompliance. CLF plans to share the furnished information with the public in order to highlight which municipalities are in or out of compliance with Clean Water Act requirements. This records request and subsequent sharing of information with the public is particularly important given the predicted increase in extreme precipitation events in the region and the concern that many of Vermont's aging combined



sewer systems and wastewater treatment facilities are not able to handle and/or treat increased loads from current heavy storm events.

CLF routinely communicates with the public through media, by providing comments at public hearings, speaking at conferences and to community groups, and preparing information summaries and communications materials to educate the public about the health and environmental impacts of degraded water quality. CLF also uses its blog (<http://www.clf.org/blog/>), to disseminate editorial content created by many of CLF's experienced attorneys and advocates on important topics in environment, energy, and public health. Through these and other avenues, CLF intends to disseminate the information requested to the general public so that they are aware of any municipal Clean Water Act violations.

CLF has no commercial interest whatsoever that will be furthered by this disclosure. CLF is a tax-exempt 501(c)(3) corporation, has no parent corporation, and is not a corporation in which any person or entity owns stock. CLF will not derive income or other benefits from use of the requested information. Consequently, a fee waiver is appropriate under FOIA and EPA regulations.

CLF reserves the right to appeal a decision to withhold any information or to deny a waiver of fees. I look forward to your response to this Request within twenty (20) business days of receipt, in accordance with 40 C.F.R. § 2.104(a).

Thank you very much for your assistance with this request. Should you have any questions about this request, please contact me by phone at 802-223-5992 or by email at [emihaly@clf.org](mailto:emihaly@clf.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Mihaly", is written in a cursive style.

Elena Mihaly, Staff Attorney  
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